

## REMARKS/ARGUMENTS

Claims 1-19 are pending in the application. Claims 6-10 and 16-19 are withdrawn from consideration. Claims 1-5 and 11-15 are rejected. Applicant has amended claim 1. Applicant has canceled claim 2. Applicant respectfully requests reconsideration of pending claims 1, 3-5, and 11-15.

The Examiner has rejected claims 1-5 and 11-15 under 35 U.S.C. § 102(b) as allegedly being anticipated by Kim, U.S. Patent No. 5,648,953. Applicant respectfully disagrees.

Regarding claim 1, Applicant has amended claim 1 to recite subject matter previously recited in claim 2. Applicant submits the cited portions of the cited reference fail to anticipate the subject matter of claim 1, as amended. As one example, Applicant can find no mention of "a second activity flag," "a second activity latch," or "a second line card circuit" in "[fig. 4; col. 5, lines 25-33, col. 12, lines 6-16], as cited by the Examiner. Applicant notes the Examiner states, with respect to the subject matter formerly recited in claim 2, "Kim inherently discloses the activity flag value is mutually exclusive with a second activity flag value held in a second activity latch of a second line card circuit." While the Examiner asserts a rejection based on purported inherency, Applicant submits that the teachings of the cited reference fail to establish inherency in accordance with existing law. For example, Applicant submits that the Examiner has failed to establish that the public gained the benefit of the subject matter recited in claims rejected based on purported inherency from the teachings of the cited reference. *Schering Corp. v. Geneva Pharmaceuticals*, 339 F.3d 1373 (Fed. Cir. 2003). As another example, Applicant submits that the Examiner has failed to establish that the subject matter recited in claims rejected based on inherency is present in the teachings of the cited reference. *Mentor v. Medical Device Alliance*, 244 F.3d 1365 (Fed. Cir. 2001); *Scaltech v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999). Thus, Applicant submits that the subject matter recited in claims rejected based on inherency cannot be considered to be inherent in the teachings of the cited reference. Accordingly, Applicant submits the Examiner has failed to satisfy the burden of proof required for asserting a rejection based on inherency. Therefore, Applicant submits claim 1 is in condition for allowance.

Regarding claim 2, Applicant has canceled claim 2.

Regarding claim 3, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter of claim 3. Applicant has presented arguments for the allowability of claim 1, from which claim 3 depends. Therefore, Applicant submits claim 3 is also in condition for allowance.

Regarding claim 4, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter of claim 4. Applicant has presented arguments for the allowability of claim 1, from which claim 4 indirectly depends. Therefore, Applicant submits claim 4 is also in condition for allowance.

Regarding claim 5, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter of claim 5. Applicant has presented arguments for the allowability of claim 1, from which claim 5 indirectly depends. Therefore, Applicant submits claim 5 is in condition for allowance.

Regarding claims 11-15, Applicant notes the Examiner states such claims "basically are the operating step [sic] that are carried out by the corresponding elements in claims 1-5." However, Applicant notes claim 11 is an independent claim. Thus, Applicant submits claims 11-15 do not depend from claims 1-5 and recite different subject matter than claims 1-5.

As to claim 11, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter of claim 11. As one example, Applicant submits the cited portions of the cited reference fail to disclose "receiving a first activity flag value from a first activity latch of a first line card circuit of the plurality of line card circuits." Applicant submits the cited portions of the cited reference fail to disclose "a first line card circuit." Applicant further submits the cited portions of the cited reference fail to disclose "the plurality of line card circuits." Thus, Applicant submits claim 11 is in condition for allowance.

As to claim 12, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter of claim 12. As one example, Applicant submits the cited portions of the cited reference fail to disclose "receiving a second activity flag value from a second activity latch of a second line card circuit of the plurality of line card circuits, the second activity flag value being mutually exclusive of the first activity flag value." Applicant submits the cited portions of the cited reference fail to disclose "a second activity flag value from a second activity latch of a second line card circuit." Applicant further submits the cited portions of the cited reference fail to disclose "the plurality of line card circuits." Applicant also submits the cited portions of the cited reference fail to disclose "the second activity flag value being mutually exclusive of the first activity flag value." Applicant notes the Examiner states, with respect to the subject matter formerly recited in claim 2, "Kim inherently discloses the activity flag value is mutually exclusive with a second activity flag value held in a second activity latch of a second line card circuit." While the Examiner asserts a rejection based on purported

inherency, Applicant submits that the teachings of the cited reference fail to establish inherency in accordance with existing law. For example, Applicant submits that the Examiner has failed to establish that the public gained the benefit of the subject matter recited in claims rejected based on purported inherency from the teachings of the cited reference. *Schering Corp. v. Geneva Pharmaceuticals*, 339 F.3d 1373 (Fed. Cir. 2003). As another example, Applicant submits that the Examiner has failed to establish that the subject matter recited in claims rejected based on inherency is present in the teachings of the cited reference. *Mentor v. Medical Device Alliance*, 244 F.3d 1365 (Fed. Cir. 2001); *Scaltech v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999). Thus, Applicant submits that the subject matter recited in claims rejected based on inherency cannot be considered to be inherent in the teachings of the cited reference. Accordingly, Applicant submits the Examiner has failed to satisfy the burden of proof required for asserting a rejection based on inherency. Thus, Applicant submits claim 12 is in condition for allowance.

As to claim 13, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter of claim 13. Applicant has presented arguments for the allowability of claim 11, from which claim 13 depends. Thus, Applicant submits claim 13 is also in condition for allowance.

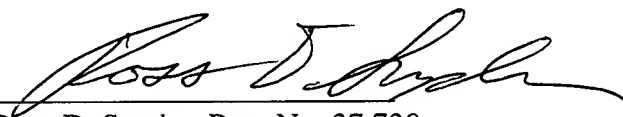
As to claim 14, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter of claim 14. Applicant has presented arguments for the allowability of claim 11, from which claim 14 indirectly depends. Thus, Applicant submits claim 14 is also in condition for allowance.

As to claim 15, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter of claim 15. Applicant has presented arguments for the allowability of claim 11, from which claim 15 indirectly depends. Thus, Applicant submits claim 15 is also in condition for allowance.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

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Date

  
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